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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 HASSAN ALI,) Case No. 1:21-cv-01325-NONE-SAB (PC)
12 Plaintiff,)
13 v.) ORDER VACATING FINDINGS AND
14 IAN CONNORS, et al.,) RECOMMENDATIONS AND ORDER
15 Defendants.) GRANTING MOTION TO PROCEED IN FORMA
16) PAUPERIS, AND CONSTRUING ACTION AS A
17) HABEAS CORPUS PETITION FILED BY A
) FEDERAL PRISONER
) (ECF Nos. 4, 7)
)

18 Plaintiff Hassan Ali is proceeding *pro se* and *in forma pauperis* in this civil rights action
19 pursuant to Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388
20 (1971).

21 On September 17, 2021, the undersigned issued Findings and Recommendations
22 recommending that the action be dismissed for failure to state a cognizable claim for relief. (ECF No.
23 7.) Plaintiff filed timely objections on October 4, 2021. (ECF No. 8.) In his objections, Plaintiff
24 submits that his “Petition was intended and assumed by him to be a petition for a writ of habeas corpus
25 and not a Bivens.” (Id. at 1.) Plaintiff requests that the Court construe his pleading as a writ of habeas
26 corpus. (Id. at 2.)

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1 Based on Plaintiff's objections, the Court will vacate the Findings and Recommendations and
2 order directing payment of the \$350.00 filing, and direct that the action be construed as a habeas
3 corpus petition filed pursuant to 28 U.S.C. § 2241. Castro v. United States, 540 U.S. 375, 383 (2003)
4 (a pro se litigant's civil rights complaint may be recharacterized as a habeas petition).

5 Accordingly, it is HEREBY ORDERED that:

- 6 1. The September 3, 2021 order directing the payment of the \$350.00 filing fee (ECF No.
7 4) is vacated;
- 8 2. The Findings and Recommendations issued on September 17, 2021 are vacated;
- 9 3. The Clerk of Court is directed to construe this action as filed pursuant to 28 U.S.C. §
10 2241; and
- 11 4. Plaintiff is advised that the Court will conduct a preliminary review of the petition in
12 due course.

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14 IT IS SO ORDERED.

15 Dated: October 12, 2021


UNITED STATES MAGISTRATE JUDGE